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Letter dated 25 October 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Saint Kitts and Nevis submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-67113 (E) 081102

Annex

Note verbale dated 2 October 2002 from the Permanent Mission of Saint Kitts and Nevis to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Saint Kitts and Nevis to the United Nations presents its compliments to the Counter-Terrorism Committee of the Security Council and has the honour to forward the report of the Federation of Saint Kitts and Nevis to the Counter-Terrorism Committee mandated by Security Council resolution 1373 (2001).

Enclosure

Report of the Federation of Saint Kitts and Nevis to the Counter-Terrorism Committee mandated by Security Council resolution 1373 (2001)*

The Federation of St. Kitts and Nevis commends the efforts of the United Nations for the leadership that it has taken in addressing the global threat to international peace and security. The Government of St. Kitts and Nevis welcomes the adoption of the UN Security Council Resolution 1373 (2001) that seeks to strengthen national efforts and the international legal system in its coordination of a global response to terrorism.

St. Kitts and Nevis, in its commitment to the lauded initiatives of the international anti-terrorism coalition, has commenced the process of establishing and implementing the requisite measures that are part of a National Plan of Action against terrorism. Despite limited resources, which continue to challenge our capacity as small states, the Federation is also engaged at the regional level, as part of the Caribbean Commuity (CARICOM) and is determined to fulfil its obligation as a member of the international community.

In order to address the issue pertinent to the international anti-terrorism agenda and to advise on all aspects of terrorism the Government has mandated the establishment of a National Anti-Terrorism Task Force. This broad base committee under the Chairmanship of the Honourable Attorney General and Minister of Justice and Legal Affairs comprise stakeholder sectors with a remit to prioritize the implementation of measures that are part of the anti-terrorism campaign, which include the tasks arising out of UN Resolution 1373 (2001) It will serve as a monitoring organ within the Federation and has been mandated to coordinate counter terrorism strategies.

The format adopted for the presentation of this Report was guided by the recommendations proposed by the Commonwealth Secretariat.

* Enclosures are on file with the Secretariat and are available for consultation.

1. **The Security Council decides that all States shall:**

(a) **Prevent and Suppress the Financing of Terrorist Acts.**

The Government of St. Kitts and Nevis has recently enacted several pieces of legislation in this area.

(i) **Anti-Terrorism Bill**

The Anti-Terrorism Bill Part III creates offences for terrorist financing. Part IV create offences for Acts of terrorism. The Bill has been read a first time in the National Assembly. A copy of the Bill is attached.

(ii) **Financial Services Commission**

A Financial Services Commission established by the Financial Services Commission Act, No. 17 of 2000 to act as the ultimate anti-money laundering regulatory body in the Federation. The Commission is charged with the enforcement of the Anti-Money Laundering Regulations.

(iii) **Anti-Money Laundering Regulations**

The Anti-Money Laundering Regulations 2001, No. 15 of 2001, establishes identification procedures, for regulated businesses, to be followed in establishing new and continuing business relationships. Section 4 (7) of the Regulations, prohibits the operation or maintenance of anonymous accounts or accounts which are in fictitious names. The Regulations apply also to pre-existing accounts and established relationships. [Section 3 (3)]

The Regulations impose a requirements for regulated business to pay special attention to all complex, unusual or large transactions, whether completed or not, and to unusual patterns of transactions and to insignificant but periodic transactions, which have no apparent economic or lawful purpose. Upon reasonable suspicion that a transaction may constitute or be related to money laundering, a regulated business **must** promptly report the suspicious transaction to the Financial Intelligence Unit (FIU): Regulation 15.

Regulation 19 of the Regulations imposes penalties for failure to comply with the requirements of the Regulations of a fine not exceeding $50,000.00.

The Financial Services Commission meets on a monthly basis and acts on matters that are presented by the Regulators. As it deems. A number of matters of concern have been forwarded to the Financial Intelligence Unit (FIU) for investigation.

The Secretariat of the Commission interacts with the Financial Intelligence Unit (FIU) and the Financial Community with regard to sharing or providing information pertinent to the industry.

The Caribbean Anti-Money Laundering Programme has assisted the Federation in conducting a number of seminars geared at exposing personnel from regulated businesses in the Federation to money laundering and measures geared at combating money laundering activities.

The Financial Services Departments of the Federation have undertaken a series of sensitization visits to several regulated businesses to assist these business in developing a better understanding of their role in the fight against crime. The Financial Services Departments have also being conducting on-site and off-site inspections of the various service providers to ensure that (a) they have adequate anti-money laundering procedures in place (b) they are in fact following these procedures (c) some senior official(s) have responsibility for the anti-money laundering program and (5) they have developed proper systems for reporting suspicious activities to the Financial Intelligence Unit.

We expect that all service providers will be audited by May, 03

Bearer Shares

The Companies (Amendment) Act No. 14 of 2001 and the Nevis Business Corporation (Amendment) Ordinance, No. 3 of 2001, create in St. Kitts and Nevis respectively, bearer certificate register mechanisms. Bearer certificates are to be registered and copies of the

certificates are to be in custody in the Federation. Non-compliance with the provisions is sanctioned by a fine or imprisonment.

The Regulators in their on-site and off-site inspections will monitor efforts to obtain information on beneficial owners of shares. The respective Registrars of Companies are in the process of striking off the Registers of Companies the names of companies that have not made the necessary filings.

Amendment (No. 3 of 2001) to the Nevis Business Corporation Ordinance provides that new bearer shares should be retained by service providers (or financial institutions approved by the minister of finance) and not distributed. The amendment also provides for information relating to beneficial ownership, of all bearer shares, to be maintained by the service providers.

We have actually been assisting service providers in their attempts to identify beneficial owners of bearer shares. Our efforts will continue as we are more interested in ensuring that beneficial ownership information is available than imposing a penalty for the non availability of information.

Offshore Banking

The Nevis Offshore Banking Ordinance was amended to give the Eastern Caribbean Central Bank supervisory and regulatory duties over the offshore banking sector in Nevis. The one offshore bank in Nevis has been subject to inspection for both prudential safety and soundness and for compliance with anti-money laundering requirements.

(b) **Criminalize the wilful provision or collection by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts.**

The Anti-Terrorism Bill Part III criminalizes the provision and collection of funds for terrorist activities

The Proceeds of Crime Act, 2000, criminalizes money laundering from serious offences and provides in section 4 (1) that money laundering offences are punishable by incarceration in addition to monetary fines.

This Act provides for the freezing, forfeiture and confiscation of the proceeds of crime; creates new offences and procedures for the purpose of forestalling and preventing money laundering, and to enable the enforcement of overseas freezing, forfeiture, and confiscation orders; and to provide for exchange of information and cooperation with other countries.

It also criminalizes the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts.

(c) **Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities.**

The Anti-Terrorism Bill Part V provides for the freezing of terrorist property. Part V of the Bill deals with: -

(i) Restraint Orders

(ii) Forfeiture Orders

(iii) Seizure and Detention of Terrorist Cash etc

(iv) Freezing Orders

(v) Property earmarked as Terrorist Property

(d) **Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons.**

The Proceeds of Crime Act and the Financial Intelligence Unit Act can be used to issue directives to financial institutions, identifying specific persons, groups or entities for the purpose of preventing any dealings with a movement of funds

2. **The Security Council decides that all States shall:**

(a) Refrain from providing any from of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists.

The Act which regulates and controls the circulation and use of Firearms and Ammunition in the Federation of St. Christopher and Nevis is the Firearm Act 1967, No. 23 of 1967.

In this Act a Firearm is defined as ***"Any lethal barreled weapon from which any shot, bullet, or other missile can be discharged, or any restricted weapon or, unless the context otherwise requires, any prohibited weapon, and includes any component part of any such weapon designed or adopted to diminish the noise or flash caused by firing the weapon but does not include any air rifle, air gun or any pistol of a type prescribed by the Minister of Home Affairs and of a Calibre so prescribed."***

Any person wishing to possess a firearm must apply in writing to the Chief of Police for permission to do so. A full investigation is then made into the applicant's background to determine his/her suitability to own licensed firearm.

A person who is a *"Restricted Person"* under the Act may not possess a licensed firearm

A Restricted Person is defined as follows:-

(a) a habitual Criminal

(b) has at any time within five years, next before the event in relation to which the term is used:-

(i) been declared by a Court pursuant to Section 3 to be a Restricted Person; or

(ii) been convicted of an offence involving violence and sentenced to a term off imprisonment, whether with or without hard labour exceeding three months.

Section 3 states thus:- A Court before which a person is convicted of an offence under this Act, other than an offence against Section 41, or under any law in force before the commencement of this Act, in respect of the importation, exportation, possession or use in St. Christopher and Nevis of any firearm or ammunition, may declare that person to be a restricted person for the purpose for this Act.

Section 41 (2) makes it an offence for a licensed Firearm user, whose firearm has been lost or stolen, not to report the loss or theft within 48 hours.

All Licensed Firearms are required by Law to be registered with the Police. The information recorded is the Make, Model Number, Serial Number, Calibre and any other manufacturer's markings that are placed on the firearm, which can assist in having that firearm traced. Licenses is granted for the Period 1st January – 31st December, in any year. When the firearm license is being renewed, the holder must bring the firearm to be inspected before the licence is renewed

Before a person can import a firearm into the Federation, that person must first obtain a Firearm User's Licence. It is on the strength of this licence that an Import Licence is granted. The import Licence must be submitted to the supplier in the exporting Country. When the firearm arrives in St. Kitts-

Nevis, it must be declared to Customs and the importer must supply proof of their authorisation to import the Firearm.

The relevant duty is paid and the firearm is handed over to the Police. The applicant will then come to the Police Station where the prescribed licence fee is paid, the firearm duly registered before it is handed over to the Licensee.

Any traveler who disembarks in St. Christopher-Nevis shall on being required to do so by Customs make a declaration whether he has any and if so what firearms or ammunition is in his possession or under his control.

If a firearm or ammunition is disclosed, unless he is the holder of a Firearm Import Permit shall either cause same to be retained upon the vessel or aircraft upon which he arrived until after the vessel has departed from St. Kitts-Nevis or deliver same to an officer of Customs in the sealed packet.

Section 4 of the Firearm Act, makes it an offence for any person to import into, export from or transship any firearm except under and in accordance with the terms of a Firearm Import Permit, Firearm Export Permit, or a Firearm Transshipment Permit as the case may be.

Import and Export Permits are granted by the Chief of Police. Transshipment Permits are granted by the Comptroller of Customs.

The holder of a Firearm User's Licence may not transfer any firearm or ammunition to another. Offences committed under this act are triable either summarily or indictably.

(b) **Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information.**

Within the Federation there is an established Joint Intelligence Centre (JIC), which is staffed by Police, Defence Force and Customs Officers. This office is manned 24 x 7. In addition, the Special Branch of this Force is in constant communication with the Special Branches of other Regional Police Forces and shares intelligence on a regular basis. The Police Force also has daily access to Interpol Communications. The Police Force can share intelligence

at the investigation stage with other Police Forces, or through the Association of Caribbean Commissioners' of Police (ACCP).

As previously mentioned, the Commissioner of Police is in daily contact with his counterparts across the region where matters of mutual interest are discussed on a daily basis. The head of the Special Branch of the local Police Force is due to attend the meeting of Heads of Special Branch from across the region in Bermuda in June, 2002.

Through the ACCP, Interpol there are mechanisms in place which can facilitate the sharing of information either on a formal or informal basis. There is cooperation with Customs and the Defence Force through the JIC and Police Officers are part of the Financial Intelligence Unit. The Police also liaise with the Air and Sea Port Authority.

It is intended to use sniffer dogs to detect drugs and explosives. This measures will be applied at the Ports of Entry, hence the collaborative efforts between the two departments. Training in this area will be pursued with assistance from the British in collaboration with national commitment by Govenrment.

(c) **Deny of safe haven of those who finance, plan, support, or commit terrorist acts, or provide safe havens.**

Section 8 (1) of the Immigration Act, 2002 allows for the Chief Immigration Officer to declare unwanted persons as prohibited immigrants, such as criminals and terrorists or any persons associated with terrorist organizations, and to deny them entry into the Federation.

These persons are identified by the local Police and Immigration with assistance from regional and international police organizations and governments.

The computerized management and immigration control system in place at all ports of entry in the Federation identifies any unwanted persons who would have been included on a watch list maintained by the Police and Immigration Department. Such persons are automatically flagged upon arrival and the immigration officer has the authority to detain any such persons.

Continuous training is offered to immigration officers. The most recent workshop centered around the identification of false documents.

The Immigration Department maintains close relations with regional immigration departments and information relating to false documents and prohibited persons trying to travel throughout the region is shared readily and constantly.

The Financial Intelligence Unit collaborates closely with Foreign Intelligence Units and law enforcement authorities in exchanging information which could lead to the identification of "would be" perpetrators.

(d) **Prevent those who finance, plan facilitate or commit terrorist act from using their respective territories for those purposes against other States or their citizens**.

The Proceeds of Crime Act, 2000 No. 16 and the Financial Intelligence Act 2000 No. 15 provide for the restraining of assets of a person convicted, charged or about to be charged with a serious offence locally or in a foreign jurisdiction. This action extends to tainted property of a person other than the person referred to above.

Collaboration with FIU and Interpol addresses this issue. Intelligence is shared on any issue that would have implications for security.

(e). **Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorists acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts.**

The Anti-terrorism Bill (see attached) has made provisions to address these concerns which will buttress those regulations already in existence.

Section 10 of the Anti-Terrorism Act, 2002 makes it an offence for any person to arrange, manage, or assist in arranging or managing a meeting which he knows is to further the activities of a terrorist group. The penalty

on conviction on indictment is ten years imprisonment and on summary conviction a term not exceeding six months or a fine or both.

Section 12 of the Anti-Terrorism Act a person commits an offence if he invites another person directly or indirectly to provide property or funding for terrorism, or offers to, provide falsified or forged travel documents to a terrorist. If such a person is convicted on indictment the penalty is fourteen years or to a fine or both on summary conviction to six months imprisonment or a fine or both.

Section 22 where a person participates in, contributes to or facilitates the activities of a terrorist group he is liable on conviction to ten years imprisonment.

Section 24 where a person instructs another person to carry out a terrorist activity knowingly harbours a terrorist or conceals a terrorist, that person commits an indictable offence and is liable on conviction to a life sentence.

(f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings.

The Attorney–General has been designated as the Central Authority for purposes of the Mutual and Legal Assistance in Criminal Matters Act, No. 7 of 1993.

(g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents.

The Ministry of Justice and Legal Affairs drafted the Immigration Bill, which is already an Act (Act No. 10). The Act is to come into force on 4th July, 2002. Section 29 (g) of this Act cover matters that relate to counterfeiting or forgoing of travel or identity documents; and fraudulent use of travel or identity documents. Section 30 of this Act provides for appropriate penalties.

Under section 29 (g) of the Immigration Act, 2002-10

(g) a person who with the intention of entering or remaining in Saint Christopher and Nevis or of assisting any other person to enter or remain in Saint Christopher and Nevis.

(1) falsifies any passport, permit or other document, commits an offence.

Under section 30 of the Act if such a person is found guilty he is liable on summary conviction to a term of imprisonment not to exceed 12 months or a fine of $10,000 or both.

The Government is taking the necessary steps to combat falsification of documents. It is in the process of procuring and installation Travel Document Reader at the ports of entry. These TDC's are able to read electronic documents and to identify any falsification.

Under section 10 of the The Passport and Travel Documents Act, 2001

Every person who:

(e) by impersonation or false representation procures or attempts to procure the issue of a passport to himself or herself or to any other person commits an offence.

Any person found guilty of an offence under this Act is liable on summary conviction to one year imprisonment or a fine of four hundred dollars and in default of payment of a fine to imprisonment for a person not exceeding one year.

Given the need for greater security, the Government is seriously considering enhancing its present capabilities by introducing an automated passport issuance system that is compliant with the standards of the International Civil Aviation Organisation. This new electronic system will ensure a more secure and transparent process for the issuance of all travel documents and eliminate any risk of fraud and forgery.

3. **The Security Council calls upon all States to:**

(a) **Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks: forged or falsified travel documents, traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups.**

(b) **Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts.**

With regards the issue of exchange of information, this has been addressed by the Anti-Terrorism Bill of 2002 (Section 103). The Bill provides for exchange of information on Terrorism with Foreign jurisdiction.

Under section 103 of the Anti-Terrorism Act

The Chief of Police may, upon a request made by a competent authority of a foreign state, to disclose to that authority, any information in his possession or in the possession of any other government department or agency relating to any of the following matters:

(a) the actions or movements of terrorist groups or persons suspected of involvement in the commission of terrorists acts;

(b) the use of forged or falsified travel documents by persons suspected of being involved in the commission of terrorist acts;

(c) traffic in weapons and sensitive materials by terrorist groups or persons suspected of involvement in the commission of terrorist acts;

(d) the use of telecommunications technologies by terrorists.

Notwithstanding the provision of subsection (1), the disclosure referred to in that subsection shall only be made if it is not prohibited by any provision of

law, and if, in the view of the Chief of Police, it will not be prejudicial to national security or public safety.

(e) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December, 1999.

St. Kitts and Nevis has signed and ratified the UN Convention on the Suppression of the Financing of Terrorism.

2. The International Convention for the Suppression of Terrorism Bombing (1997)

Instrument of Accession [dated 29th November, 2001] has been deposited with the United Nation Secretary General, a the United Nations Headquarters in New York in November, 2001.

3 UN Convention Against Transnational organized Crime (2000)

This Convention has been signed by St. Kitts and Nevis on 20th November, 2001 at the United Nations Headquarters in New York.

4. Convention for the Suppression of Unlawful Acts against the safety of Maritime Navigation (1988)

St. Kitts and Nevis has deposited an Instrument of Accession dated 29th November, 2001 with the depository and forwarded to the depository – Secretary General of the International Maritime Organisation.

5. Convention of the Marking of Plastic Explosives for the purpose of Detection. (1991)

Instrument of Accession has been deposited with the Secretary General of the International Civil Aviation Organization.

6. Protocol for the Suppression of Unlawful Acts Against the safety of Fixed Platforms located on The Continental Shelf (1988)

Instrument of Accession has been deposited submission to the depository.

(f) Take appropriate measures in conformity with relevant provisions of national and international law, including international standards of human rights, before granting refugee states, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts.

(g) ensure, in conformity with international law, that refugee status is not abused by perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for extradition of alleged terrorists.

3 (f) and (g)

The Immigration Act, 2002 makes certain classes of persons prohibited immigrants. Refugees may or may not be prohibited immigrants, the legislation does not expressly refer to refugees. However the Act, does expressly define a terrorist as a prohibited person.

As regards the review and amendment of domestic extradition legislation, multilateral extradition agreements and extradition treaties as may be necessary to ensure that the political offence exception is not applicable to any terrorist offences, a bill entitled the Anti-Terrorism Bill has been drafted and read a first time in the National Assembly. Section 104 and 105 of this Bill make provision for the counter terrorism convention to be used as basis for extradition and mutual assistance in criminal matters where the domestic legislation does not provide for certain matters, while section 106 provides that offences under that Act are not to be of a political nature.

Measures to be Adopted

- Review the St. Christopher and Nevis Immigration Act, 2002.

- Amend the Immigration Act with a view to clearly defining the "refugee" and outlining measures to evaluate the authenticity of someone who is seeking asylum as a refugee. The process should be fair, expeditious and simple to enable the authorities to distinguish between a legitimate refugee and a terrorist.

- Craft immigration legislation regarding refugees and ensure that such legislation conforms with international law.

- Promote a public awareness campaign involving government officials, civil society and the general public with respect to national and international laws on refugees.

- Provide training for immigration, law enforcement officers and Ministry of Foreign Affairs personnel (passport officers) on issues relevant to dealing with refugees. An agency such as the United Nations High Commission for Refugees (UNHCR) could be invited to assist with such training.

Conclusion

The Government of St. Kitts and Nevis will remain engaged in the Anti-Terrorism campaign. We are confident that the initial steps taken with respect to our commitment to this global endeavour are by no means final. The Federation will continue are to devise and strategies in light of ongoing developments in the international arena.

In order to effectively implement the requirements of the resolution, we would recommend assistance in the following areas:

1. Technical assistance to address security concerns.

2. Equipment: Provisions of the relevant equipment to accelerate exchange of information, improve security. e.g. computer and computer software.